

THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

January 28, 2010

9:30 A.M.

Reported By:

Teri Veres, RMR  
Certified Reporter (AZ 50687)

<p style="text-align: right;">Page 2</p> <p>1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on January 28, 3 2010, at the State of Arizona, Clean Elections Commission, 4 1616 W. Adams, Conference Room, Phoenix, Arizona, in the 5 presence of the following Board members:</p> <p>6 Ms. Royann Parker, (Chairperson) 7 Mr. Gary Scaramazzo 8 Ms. Lori Daniels (Telephonically) 9 Mr. Louis Hoffman 10 Mr. Jeff Fairman</p> <p>11 OTHERS PRESENT:</p> <p>12 Todd Lang, Executive Director 13 Colleen McGee, Deputy Director 14 Rita Azcona, Administrative Assistant III 15 Paula Ortiz, Executive Assistant 16 Michael Becker, Voter Education Manager 17 Daniel Ruiz, II, Campaign Finance Manager 18 Christopher Munns, Assistant Attorney General 19 Nancy Read, Secretary of State's Office 20 Katherine DeStefano, Perkins Coie, et al. 21 Peter Limperis, Haralson Miller Pitt, et al. 22 Sara Larson, Haralson Miller Pitt, et al. 23 Timothy Schwartz 24 Michael Brewer 25 Mary Jo Brooks, PBS</p>	<p style="text-align: right;">Page 3</p> <p>1 2 PROCEEDINGS 3 4 CHAIRPERSON PARKER: Well, it's 9:30. I guess 5 we'll call this meeting of the Citizens Clean Election 6 Commission to order. Pursuant to A.R.S. 38-431.02 notice 7 is given that we're going to have this meeting and it's 8 Thursday, January 28th, 2010, at 9:31 a.m. and Lori 9 Daniels, one of our Commissioners, is joining us by phone. 10 Welcome, Lori. 11 COMMISSIONER DANIELS: Thank you. 12 CHAIRPERSON PARKER: Okay. All matters on the 13 agenda may be discussed, considered and are subject to 14 action by the Commission and minutes of and discussions 15 made at an executive session are confidential pursuant to 16 A.R.S. §38-431.03(B) and shall not be released to anyone 17 unless specifically authorized by law, and that's in case 18 we do need to go into any executive sessions. 19 First item on the agenda is approval of the 20 December 17, 2009, Commission minutes. 21 Commissioners, do we have any changes? 22 Jeff. 23 COMMISSIONER FAIRMAN: I make a motion we approve 24 the minutes of December 17th. 25 CHAIRPERSON PARKER: Okay.</p>
<p style="text-align: right;">Page 4</p> <p>1 COMMISSIONER SCARAMAZZO: I'll second that. 2 CHAIRPERSON PARKER: Okay. Any discussion? 3 All in favor say "aye." 4 (Chorus of ayes.) 5 CHAIRPERSON PARKER: Okay. Next item, Todd, your 6 report. 7 MR. LANG: Thank you, Madam Chair. Good morning, 8 Commissioners. I wanted to say one last time goodbye to 9 Tanja Shipman. She did a great job for us over the last 10 couple years. She's now working as a Public Defender 11 because she's getting married and her fiancé lives in 12 southern Arizona. Chris is an outstanding lawyer and -- 13 and will do a great job today. 14 I also wanted to update you on the number of 15 participating candidates we have. We have 91 right now and 16 the press keeps asking me, "Well, who's dropped out? Who's 17 dropped out because of the litigation?" and I want to tell 18 you that no one dropped out even though the normal ebb and 19 flow is people change their mind for a number of reasons in 20 regular election cycles and so it is interesting. 21 We think several more candidates will participate 22 based on the fact that they're out there collecting five 23 dollar contributions and getting seed money even though 24 they have not yet become certified participating 25 candidates.</p>	<p style="text-align: right;">Page 5</p> <p>1 The oral argument in the matching funds case 2 occurred since the last meeting and, as you know, the Court 3 issued the order striking down matching funds and we've now 4 appealed to the Ninth Circuit and we'll talk about -- more 5 about that appeal when we get to that point in the agenda, 6 but I want to let you know the appeal had been filed, the 7 request for stay has been filed and the plaintiffs have 8 also asked for emergency relief as well. 9 I'm going to Colorado on the 13th to talk about 10 campaign finance reform and, in particular, Arizona's Clean 11 Elections Program. I've been to West Virginia, New Mexico 12 and now the folks in Colorado are trying to get 13 publicly -- publicly-financed elections active there in 14 Colorado, and I've been meeting with other attorneys for 15 the Secretary of State's office and for the -- for the 16 Legislature and the Attorney General's office regarding the 17 impact that Citizens United will have on the State's 18 regulation of independent expenditure ads. 19 As you know, now corporations don't have to 20 communicate through PACs. They can do it directly through 21 independent expenditure ads, and so we've been meeting to 22 discuss what, if any, changes need to be made towards 23 statutes in order to effectuate that. 24 As for Clean Elections, of course, the impact 25 there is on matching funds and I reminded them that the</p>

<p style="text-align: right;">Page 6</p> <p>1 threshold for reporting under our law is \$500, and the</p> <p>2 meeting's been going well and everybody is looking to find</p> <p>3 a clear -- a clear solution and system.</p> <p>4 Unless you have questions, that concludes my</p> <p>5 report.</p> <p>6 CHAIRPERSON PARKER: Anybody have questions?</p> <p>7 COMMISSIONER SCARAMAZZO: No.</p> <p>8 CHAIRPERSON PARKER: Okay. The next item on our</p> <p>9 agenda is Item III, Consideration and Possible Action on</p> <p>10 the Final Following Rule Change: R2-20-109(G)(3)(a)(b)</p> <p>11 Reporting Requirement Use of Airplanes.</p> <p>12 Todd, can you explain that rule change for us?</p> <p>13 MR. LANG: Yes, thank you, Madam Chair and</p> <p>14 Commissioners. This -- this rule change is just designed</p> <p>15 to accommodate the challenge that statewide candidates have</p> <p>16 when they're already holding office. For security reasons,</p> <p>17 for instance, the Governor is required to travel in a State</p> <p>18 plane, which is a wonderful luxury when you're doing</p> <p>19 political campaigning, but at the same time because it's a</p> <p>20 value some sort of report has to be made for purposes of</p> <p>21 campaign finance reports; and it's not as if the Governor's</p> <p>22 race wants to do it that way, it's required by her security</p> <p>23 and, as you'll recall, this was also an issue when Janet</p> <p>24 Napolitano was our Governor. She had the same challenge</p> <p>25 and, also, the Attorney General may use the State plane as</p>	<p style="text-align: right;">Page 7</p> <p>1 well. So it's also an issue for Terry Goddard.</p> <p>2 What we proposed was a very simple solution, which</p> <p>3 is, make the Governor spend the same as if she were using a</p> <p>4 privately-owned airplane; and our rule that already exists</p> <p>5 before this is \$150 an hour and so we suggested that the</p> <p>6 Governor pay the same for the State-owned plane because it</p> <p>7 is a very convenient way to travel, but we also recognize</p> <p>8 even though charters are much more expensive than 150 an</p> <p>9 hour, we also recognize that she's required to do it.</p> <p>10 And so it wouldn't be as if she would have to pay</p> <p>11 the entire amount, it would simply be the amount -- the</p> <p>12 portion of the trip that would be allocated to the</p> <p>13 political campaign activity. So if she flies to Tucson and</p> <p>14 -- for a business purpose, for an official purpose as</p> <p>15 Governor and then also does a campaign stop, she would be</p> <p>16 able to split that or allocate that 50/50 at \$150 an hour,</p> <p>17 and we viewed it as a simple solution.</p> <p>18 We did receive a letter from Grant Woods as</p> <p>19 co-chairman for the Brewer campaign, which basically</p> <p>20 reflected the things we already knew from hearing from</p> <p>21 Governor Napolitano so many years ago, which is, that</p> <p>22 they're required to use the plane. They suggested they</p> <p>23 would do what she did, what Janet Napolitano did, and so</p> <p>24 Colleen McGee presented -- found the -- dug up the Janet</p> <p>25 Napolitano mileage reports that she used during her race --</p>
<p style="text-align: right;">Page 8</p> <p>1 and I'll -- I'll send this around to everyone -- and what</p> <p>2 is clear is that under the old rule, which used nautical</p> <p>3 miles -- remember -- those of you that have been on the</p> <p>4 Commission a while remember that we had very complex</p> <p>5 airplane rules and we went on for months about them, and</p> <p>6 then a few years ago we decided to clean them up and</p> <p>7 simplify them. So this -- this was under the very complex</p> <p>8 rules but, effectively, it came down to really the same</p> <p>9 policy, which is, when she traveled to an event that had a</p> <p>10 split purpose she just divided it.</p> <p>11 And so, for instance, I'm looking at a report from</p> <p>12 October of 2006, she flew from Phoenix to Yuma. It was</p> <p>13 half government purpose, half campaign trip, and so she</p> <p>14 paid half the cost. Her campaign paid half the cost, and</p> <p>15 then on other trips which were purely political she paid</p> <p>16 all the cost, and so these are available for you to take a</p> <p>17 look at.</p> <p>18 So, frankly, I'm -- I'm pleased that the Brewer</p> <p>19 folks are telling us that they're going to follow the model</p> <p>20 set by the Napolitano campaign because I think the model</p> <p>21 set by that campaign is -- we break it down 50/50 when</p> <p>22 that -- when that occurs.</p> <p>23 The letter raises a concern of what constitutes</p> <p>24 campaign purpose or State business; but, frankly, I -- I</p> <p>25 trust their good faith. I realize people can nitpick, but</p>	<p style="text-align: right;">Page 9</p> <p>1 I trust their good faith if they have a campaign stop and</p> <p>2 two -- and a State stop, obviously I think that's 50/50.</p> <p>3 If they have three campaign stops and one State purpose</p> <p>4 stop, well, then they'll have to break it down and I trust</p> <p>5 that they'll do that. I don't -- it wasn't -- it has not</p> <p>6 been a problem in the past, and I don't anticipate it being</p> <p>7 a problem this election cycle either.</p> <p>8 CHAIRPERSON PARKER: Todd, I have a question.</p> <p>9 I noticed on Napolitano's report that they billed</p> <p>10 it at 99.5 cents a mile.</p> <p>11 MR. LANG: Uh-huh.</p> <p>12 CHAIRPERSON PARKER: How does that compare to the</p> <p>13 \$150 an hour?</p> <p>14 MR. LANG: Well, I don't have the -- the chart in</p> <p>15 front of me. I should have made a copy for everyone. Um,</p> <p>16 let's take a look.</p> <p>17 CHAIRPERSON PARKER: I didn't know if that was</p> <p>18 comparable --</p> <p>19 MR. LANG: I hadn't done that calculation, but if</p> <p>20 they're flying from, let's say, Tucson to Phoenix --</p> <p>21 CHAIRPERSON PARKER: That's about an hour flight.</p> <p>22 MR. LANG: -- the cost is about a dollar -- about</p> <p>23 a hundred dollars and at the 150 an hour, it would have</p> <p>24 been \$150. So it's slightly more.</p> <p>25 CHAIRPERSON PARKER: Okay. Okay.</p>

<p style="text-align: right;">Page 10</p> <p>1 COMMISSIONER FAIRMAN: I think -- excuse me, Madam 2 Chair?</p> <p>3 CHAIRPERSON PARKER: Yes.</p> <p>4 COMMISSIONER FAIRMAN: When we discussed this, I 5 think a couple of years ago and then we came up with the 6 150 --</p> <p>7 CHAIRPERSON PARKER: Uh-huh.</p> <p>8 COMMISSIONER FAIRMAN: -- I think I recall that 9 and it was -- you had some of those calculations, Todd, at 10 that time and that seemed to be a fair balance in terms of 11 the cost so...</p> <p>12 CHAIRPERSON PARKER: Okay.</p> <p>13 COMMISSIONER HOFFMAN: It depends how fast they're 14 working.</p> <p>15 CHAIRPERSON PARKER: Lori, do you have -- yes, 16 Lori.</p> <p>17 COMMISSIONER DANIELS: Todd, I understand -- I 18 really think this is a fair rule, but I was wondering would 19 it be possible or are you comfortable with writing a letter 20 back to the Brewer campaign explaining that -- that we 21 didn't want to define this because we do -- are very 22 trusting and we do believe that -- that their honesty and 23 upfrontness, both in her campaign and other campaigns, 24 would make it so that we don't want to be the big hammer. 25 We want them to be self-reporting in so many ways, which is</p>	<p style="text-align: right;">Page 11</p> <p>1 really what a lot of Clean Elections is anyway.</p> <p>2 MR. LANG: I'd be happy to do that, Commissioner.</p> <p>3 COMMISSIONER DANIELS: I just feel like we should 4 respond a little bit to the letter, that we're not just 5 ignoring it.</p> <p>6 CHAIRPERSON PARKER: I agree, Lori.</p> <p>7 MR. LANG: I think by the fact that we transferred 8 the letter -- that everyone has a copy of the letter, that 9 all the Commissioners have read it show how seriously 10 you're taking the letter; but I'd be happy to send them a 11 response as well and I'll include the -- the old Napolitano 12 information as well just so they have that for their 13 reference.</p> <p>14 COMMISSIONER DANIELS: Thank you, Todd.</p> <p>15 CHAIRPERSON PARKER: Yes, Louis.</p> <p>16 COMMISSIONER HOFFMAN: Mr. Lang, a couple 17 questions about the letter. First of all, it was unclear 18 to me that the Brewer campaign or Mr. Woods were -- were 19 saying that they were taking a position on whether the rule 20 ought to be passed or not ought to be passed. It left that 21 unclear, and I wondered if there was any separate 22 communications suggesting what they actually recommend you 23 do or not do? All it did was express some concerns about 24 enforcement of the rule.</p> <p>25 MR. LANG: Right. Madam Chair, Commissioner</p>
<p style="text-align: right;">Page 12</p> <p>1 Hoffman, the -- the communication I received from Lee 2 Miller was that effectively what they planned to do -- 3 because they thought that Napolitano did this in some 4 instances -- is if they fly to Kingman and -- for State 5 purpose, then that will be completely non-reported, and 6 when they drive from Kingman to Lake Havasu for a campaign 7 stop, they'll pay the mileage and that's their plan.</p> <p>8 COMMISSIONER HOFFMAN: Well, putting aside their 9 plan, I'm asking did they communicate to you directly or 10 indirectly what they would like us to do or not do with the 11 rule amendment specifically? Do they oppose it or do they 12 request modification? It wasn't clear to me that they said 13 either.</p> <p>14 MR. LANG: I would say that they have concerns 15 about it and if you had to characterize it, I'd say they 16 oppose it. They didn't provide an alternative plan.</p> <p>17 COMMISSIONER HOFFMAN: Well, that's the question, 18 I mean. The other point in the letter was that they -- 19 they complain or comment that it doesn't have definition of 20 campaign purpose or State business and they're concerned 21 about the lack of definitions.</p> <p>22 Have they proposed a definition?</p> <p>23 MR. LANG: No.</p> <p>24 COMMISSIONER HOFFMAN: Could you include in the 25 letter that if -- that we would be open to hearing their</p>	<p style="text-align: right;">Page 13</p> <p>1 proposals if they believe that something should be done to 2 the rule in terms of either including definitions or 3 modifying it in some way that would be more sensitive to 4 the needs of the -- of the candidates?</p> <p>5 I don't think that the letter contends that the 6 value ought to be zero, and I don't know that it would be 7 fair to contend that the value would be zero to a campaign, 8 and so the real question we're faced is how one values it 9 and to the extent that they can provide any input on that 10 that's specific to the -- that might allow us to approve 11 the rule in the future, I for one would be happy to hear 12 that.</p> <p>13 If, on the other hand, they're simply concerned 14 about uneven enforcement, well, then, as Commissioner 15 Daniels said, let's assure them that we're going to do our 16 best to enforce it evenhandedly and in a fair and 17 reasonable fashion.</p> <p>18 MR. LANG: Will do.</p> <p>19 COMMISSIONER HOFFMAN: Thank you.</p> <p>20 CHAIRPERSON PARKER: Commissioners, any other 21 comment? Is there anyone from the public that would like 22 to speak on this issue? Okay.</p> <p>23 COMMISSIONER FAIRMAN: Madam Chair?</p> <p>24 CHAIRPERSON PARKER: Yes.</p> <p>25 COMMISSIONER FAIRMAN: What action are you looking</p>

<p style="text-align: right;">Page 14</p> <p>1 for from us specifically on this?</p> <p>2 CHAIRPERSON PARKER: I'm looking --</p> <p>3 COMMISSIONER FAIRMAN: Is there --</p> <p>4 CHAIRPERSON PARKER: Well, I guess we would need a</p> <p>5 motion to approve or disapprove the Rule</p> <p>6 R2-20-109(G)(3)(a)(b).</p> <p>7 COMMISSIONER FAIRMAN: In that case, I'd like to</p> <p>8 make a motion that we do approve the rule change</p> <p>9 R2-20-109(G)(3)(a)(b) regarding the reporting requirement</p> <p>10 and use of airplanes.</p> <p>11 CHAIRPERSON PARKER: Okay.</p> <p>12 COMMISSIONER SCARAMAZZO: I'll second that also.</p> <p>13 CHAIRPERSON PARKER: Okay, all right. And then so</p> <p>14 we'd need to vote on that motion, right?</p> <p>15 COMMISSIONER SCARAMAZZO: Yes.</p> <p>16 CHAIRPERSON PARKER: Okay. Okay.</p> <p>17 All in favor of that motion say "aye."</p> <p>18 (Chorus of ayes.)</p> <p>19 CHAIRPERSON PARKER: Okay. Then Louis had some</p> <p>20 questions so would that have to be an additional motion?</p> <p>21 COMMISSIONER SCARAMAZZO: No.</p> <p>22 CHAIRPERSON PARKER: That was just direction to</p> <p>23 you. Okay, very good. I just wanted to make sure that was</p> <p>24 all covered.</p> <p>25 Okay, all right. Okay. Item No. IV then,</p>	<p style="text-align: right;">Page 15</p> <p>1 Consideration --</p> <p>2 MR. MUNNS: Do you need to --</p> <p>3 CHAIRPERSON PARKER: Oh, sorry.</p> <p>4 MR. MUNNS: Madam Chair, you need to announce</p> <p>5 whether it passed or --</p> <p>6 CHAIRPERSON PARKER: Oh, I'm sorry, the motion did</p> <p>7 pass. Okay, thank you.</p> <p>8 COMMISSIONER HOFFMAN: You should record that it</p> <p>9 passed unanimously.</p> <p>10 CHAIRPERSON PARKER: Okay, the motion passed</p> <p>11 unanimously.</p> <p>12 Okay. The next item is the Consideration and</p> <p>13 Possible Action on the 2010 Education Plan. Mike Becker is</p> <p>14 going to give us a presentation. Welcome, Mike.</p> <p>15 MR. BECKER: Thank you. Good morning, Madam</p> <p>16 Chairman, Commissioners. Before you is the 2010 Education</p> <p>17 Plan. Just a little recap of the 2009 plan.</p> <p>18 In 2009 we only used print ads, Internet banner</p> <p>19 ads and mobile ads to get our message out to the public.</p> <p>20 At the end of '09 we did our survey which we've done yearly</p> <p>21 since -- for the five years since I've been here. The</p> <p>22 numbers came back just as strong as they've been in the</p> <p>23 past.</p> <p>24 As you can see, I gave you a little bit of feel</p> <p>25 for it. Overall, 77 percent of those surveyed believe that</p>
<p style="text-align: right;">Page 16</p> <p>1 the Clean Elections Act is very important to Arizona. In</p> <p>2 2008 that was 80 percent. Those numbers are pretty good</p> <p>3 being '09 was a non-election year, 2008 was a historic</p> <p>4 election year. So staying in that range is very good for</p> <p>5 us. As you can also see, 72 percent of those surveyed say</p> <p>6 they are somewhat or very familiar with the act. In 2008</p> <p>7 that was 74 percent. So, again, the numbers stayed</p> <p>8 strong.</p> <p>9 One area that continues to stymie us in terms of</p> <p>10 getting information to the public is where we get our</p> <p>11 funding from, where the Commission receives funding. As</p> <p>12 you can see in the fourth paragraph down, 14 percent of</p> <p>13 those surveyed believe that we get our funding from the</p> <p>14 General Fund. In 2008 that was 15 percent. So there's a</p> <p>15 slight dip, but not -- not what we're hoping for. So</p> <p>16 that's an area we want to stress in 2010.</p> <p>17 I just want to draw your attention to a few areas</p> <p>18 that I suggested we move forward with in 2010. Paid media,</p> <p>19 we want to go back -- I'm suggesting we go back and use TV</p> <p>20 and radio spots once again to really get the message out</p> <p>21 that we are alive and kicking here.</p> <p>22 As you can see, we want you to use Clean Elections</p> <p>23 to run for office and, also, that we want to promote the</p> <p>24 idea that Clean Elections was used by the people and for</p> <p>25 the people and that we're here to stay in Arizona. We want</p>	<p style="text-align: right;">Page 17</p> <p>1 -- we want to do that with TV. We want to do that with</p> <p>2 radio.</p> <p>3 We've got several TV spots that are -- have</p> <p>4 already been created from past years that we can use.</p> <p>5 We're looking to create some more to continue the story</p> <p>6 line that we started in previous years. Same with the</p> <p>7 radio spots. We also want to continue using the banner ads</p> <p>8 as we did in the past and also use mobile ads. Mobil ads</p> <p>9 are those ads that pop up on your cell phones. They're</p> <p>10 designed specifically for iPods, cell phones, stuff like</p> <p>11 that.</p> <p>12 We're also looking to continue the op-eds that</p> <p>13 we've done in the past. We want to keep getting the</p> <p>14 message out, getting you those on our website, getting them</p> <p>15 out to the press so that our message is heard throughout</p> <p>16 Arizona, and we've also been lucky enough to be put into</p> <p>17 many papers nationwide. So the message is getting out</p> <p>18 there, and we want to continue doing that.</p> <p>19 In terms of outreach, we want to use the Facebook</p> <p>20 site and our Twitter accounts much more productively than</p> <p>21 we did in '09. In '09 we kind of were feeling our way</p> <p>22 about how we wanted to do it, what messages we wanted out,</p> <p>23 how -- how we would take care of doing that.</p> <p>24 2010 we want to be more active, more aggressive,</p> <p>25 make sure positive articles that not only are on our</p>

<p style="text-align: right;">Page 18</p> <p>1 website, they go on our Facebook accounts, actions by the  2 Commission, actions by -- towards anything like that that  3 we can get on our Twitter account, can go out immediately  4 so that way the message is there in the public's hands  5 within seconds of it happening.  6 Lastly, I want to draw your attention to the  7 surveys that we've been doing. Again, we want to do it at  8 the end of the year to see how our message has worked in  9 2010, but I'm also suggesting that we look at the  10 possibility of doing a focus group halfway through the  11 year, getting people together and see how the message is  12 going through the first six months of 2010, first seven  13 months and see where we need to tweak it if we have to.  14 So those are my suggestions for 2010. I'd be  15 happy to answer any questions.  16 COMMISSIONER SCARAMAZZO: Mike, are there any  17 clarifications in people's minds -- I don't know if it came  18 up on these surveys or not -- concerning matching funds and  19 the imminent death of Clean Elections in people's minds?  20 MR. BECKER: Madam Chairman, Commissioner  21 Scaramazzo, not during the survey itself, but since the  22 course of the rules, since the issues have come up that  23 issue has really raised its head whether or not we actually  24 are going to exist anymore because matching funds is in  25 limbo. So that is an area we need to get -- we want to</p>	<p style="text-align: right;">Page 19</p> <p>1 stress in 2010, that we are here. We will be able to fund  2 you, your initial funding without any problems. So that's  3 an area we want to push hard.  4 COMMISSIONER FAIRMAN: Madam Chair?  5 CHAIRPERSON PARKER: Yes, Jeff.  6 COMMISSIONER FAIRMAN: As it relates to the  7 Facebook and the Twitter account, is that -- is that  8 something that's your responsibility and -- and how much  9 time during an average day does that really involve? Where  10 does that -- how does all that information get to those --  11 those sites?  12 MR. BECKER: Commissioner, yes, that falls on my  13 shoulders, as well as Daniel Ruiz. As far as time is  14 concerned, maybe five minutes, ten minutes. It's not --  15 it's something that we can do very rapidly. It's not -  16 COMMISSIONER FAIRMAN: It's just like a quick  17 e-mail?  18 MR. BECKER: Yes, exactly.  19 COMMISSIONER FAIRMAN: Okay, thank you.  20 CHAIRPERSON PARKER: Mike, I have a couple of  21 questions --  22 MR. BECKER: Sure.  23 CHAIRPERSON PARKER: -- along with the Facebook  24 comment. Do we also put out there on our Facebook like  25 notifying people, you know, "Hey, you know, two days from</p>
<p style="text-align: right;">Page 20</p> <p>1 now we're going to do our campaign seminar down in Sierra  2 Vista," or whatever so people could participate in that if  3 they want or when the debates are coming up to make sure  4 the debates are talked about on our Facebook account?  5 MR. BECKER: Madam Chair, yes, we'll make sure  6 that every -- everything that we do is out there so the  7 public knows.  8 CHAIRPERSON PARKER: Okay. And then on the direct  9 mail, I know we've talked about it kind of in theory in the  10 past, but maybe trying to come up with a way when new  11 people register to vote to get them information about Clean  12 Elections at the time they're registering to vote so that  13 they're aware of it early on in their voting career.  14 I don't know if that's going to entail working  15 with the different counties or with the Secretary of  16 State's office, but that's something we might want to look  17 into and see if it would be cost-effective.  18 MR. BECKER: Madam Chairman, it's definitely  19 something we can look into and see if it's -- if we can get  20 involved in that.  21 CHAIRPERSON PARKER: Yeah, if we can, because I  22 know there's so many different places you can register to  23 vote but -- you know, or if there's a way to get a mailing  24 list of new voters or follow up with some information on  25 our agency here.</p>	<p style="text-align: right;">Page 21</p> <p>1 MR. BECKER: Definitely look into it.  2 COMMISSIONER FAIRMAN: Madam Chair?  3 CHAIRPERSON PARKER: Yes, sir.  4 COMMISSIONER FAIRMAN: Along those lines, Mike --  5 I should know this but I don't -- is there a program of  6 outreach out to the high schools and, you know, the  7 sociology classes and the government classes about Arizona  8 and Arizona's place in Clean Elections? Is that part of  9 any curriculum that you're aware of?  10 MR. BECKER: Madam Chair and Commissioner, we have  11 worked in the past with kids voting and getting them  12 information and educating them on -- on Clean Elections. I  13 know, Madam Chairman, you've mentioned going out to  14 specifically in Tucson, like a class down there and  15 teaching. We'd be more than happy to do that, but we do --  16 we have worked in the past with kids voting so there is  17 information out there.  18 COMMISSIONER FAIRMAN: There is some tie?  19 MR. BECKER: Yeah, so we do have a tie in to  20 that.  21 COMMISSIONER FAIRMAN: Okay.  22 MR. BECKER: But we can look into doing more and  23 getting more.  24 COMMISSIONER FAIRMAN: It's a very time -- I know  25 it's very time intensive and it's a -- it's a chore but,</p>

<p style="text-align: right;">Page 22</p> <p>1 you know, there's a whole lot of things that happen in  2 forming those opinions early --  3 MR. BECKER: Right.  4 COMMISSIONER FAIRMAN: -- if it's worthwhile.  5 MR. LANG: Commissioner, you know, the Kids Voting  6 Program is a good strategy for us, those sorts of programs.  7 It's administered by the Foundation for Education and Legal  8 Services, which used to be affiliated with the State Bar  9 but no longer is, and they do a program statewide, an  10 educational program, a pack of materials, they have  11 newcourt, and they do this all statewide. So Mike's  12 involvement with that is a really much more efficient way  13 than sending Mike to individual high schools. I mean, he  14 can do that as well for particular requests, but we're  15 looking for more programs like Kids Voting to get involved.  16 COMMISSIONER FAIRMAN: Thank you.  17 CHAIRPERSON PARKER: Good job, Mike, thanks.  18 COMMISSIONER DANIELS: Madam Chairman?  19 CHAIRPERSON PARKER: Yes.  20 COMMISSIONER DANIELS: Madam Chairman, I think I  21 talked to Todd about this before. While I do not want to  22 negate in any way what Mike's plan is for voter education,  23 I think it's very thoughtful and well thought out, I'm  24 going to end up voting no on this and on the budget because  25 of the amount of money we're spending this year on voter</p>	<p style="text-align: right;">Page 23</p> <p>1 education.  2 I just personally feel like where the State is  3 financially right now that this would be an area we could  4 cut back, and so that's just my concern. I don't know that  5 anybody else on the Commission shares it, but before I vote  6 no I wanted to explain why.  7 CHAIRPERSON PARKER: Okay. Thanks, Lori.  8 COMMISSIONER SCARAMAZZO: Isn't there a mandate  9 that we expend, like, 10 percent?  10 MR. LANG: That's right.  11 COMMISSIONER HOFFMAN: What does that work out to  12 be?  13 MR. LANG: If you look at the budget on Tab 6,  14 you'll see that the cap is -- if you look at the  15 expenditure cap, eight percent of the cap is \$965,000. So  16 ten percent is approximately a million dollars, and  17 obviously we're exceeding a million dollars.  18 COMMISSIONER HOFFMAN: It looks like about a  19 million two or so and the plan is for two -- I'm sorry, I'm  20 not looking at the right pages here. The plan is for two  21 million?  22 MR. BECKER: The overall education budget  23 including everything -- including the candidates' statement  24 and everything is roughly 6.2 million. This portion of the  25 plan, just this part, would be about two million dollars.</p>
<p style="text-align: right;">Page 24</p> <p>1 MR. LANG: Mike's plan is two million dollars.  2 COMMISSIONER HOFFMAN: Madam Chair?  3 CHAIRPERSON PARKER: Yes, Louis.  4 COMMISSIONER HOFFMAN: Could I ask Mike if there  5 are ways in -- you know, what staff's response is to  6 Commissioner Daniels' concern if -- is there ways that this  7 could be -- you know, voter education could reasonably be  8 cut without causing significant damage to the educational  9 overall mission of the Commission?  10 MR. BECKER: Madam Chairman, Commissioners, I'm  11 happy to do whatever the Commission instructs me to do.  12 This plan I put together is lean and mean and not  13 exorbitant in any way. It's my opinion that 2010 is a very  14 important year for Clean Elections not only in the fact  15 that it's an election year with every statewide office up  16 so every eye will be out there watching what's on TV,  17 watching -- listening to the radios more, intently seeing  18 what's happening in the papers so it's a good chance to get  19 our message out, but we continue to have misinformation,  20 miscommunications out there from people thinking that  21 because of the issues with matching funds Clean Elections  22 no longer will be here, issues that we will not be able to  23 fund candidates completely, things like that.  24 So my opinion is that it's very important that we  25 keep the plan and move forward to get the message out so</p>	<p style="text-align: right;">Page 25</p> <p>1 that people understand that Clean Elections is not going  2 anywhere.  3 MR. LANG: Madam Chair, Commissioners, you know, I  4 want to echo what Mike said; and, you know, I view the  5 statutory mandate as a floor. The point of the folks who  6 were writing the statute was, "We want education. We want  7 that to be part of what you do," and Mike's education  8 program is modest and effective and it certainly isn't any  9 more than what we've spent in the past. It's right in line  10 with what we've spent in the past for the last several  11 years.  12 As for the money that -- the State's fiscal  13 crisis, it's something we take very seriously and that's  14 why we've aggressively increased the amount of money that  15 we've transferred to the State fund. If you approve what  16 we've proposed for today, it will be 44 million dollars in  17 the last two years. That's a serious amount of money  18 coming from Clean Elections to help with the State budget  19 crisis.  20 This 1.2 million or two million dollar expenditure  21 is very important for Clean Elections and our educational  22 mission, and while we take that budget crisis as seriously  23 as we take anything, it's versus the help it would provide  24 towards this over what, four billion dollar deficit, you  25 know, it makes it clear to me that it's much better spent</p>

<p style="text-align: right;">Page 26</p> <p>1 on education.</p> <p>2 That said, we respect the need of the State and we</p> <p>3 take it seriously and we feel like we're part of the</p> <p>4 solution and we want to continue to be part of the State's</p> <p>5 budget solution.</p> <p>6 CHAIRPERSON PARKER: Any other comments? Jeff.</p> <p>7 COMMISSIONER FAIRMAN: Madam Chair, I would agree</p> <p>8 with staff on this. I think that we've been dealt a</p> <p>9 responsibility and a chore that we didn't intend, and I</p> <p>10 think this is the year that we really have to spend some</p> <p>11 time being out there and letting everyone know what exactly</p> <p>12 the process is and what the facts are; and if your plan</p> <p>13 gets us to that point -- and I agree it's not any different</p> <p>14 than other years. It's not out of line. I would say this</p> <p>15 is the year to spend that money, more so than maybe even</p> <p>16 past years, quite frankly.</p> <p>17 CHAIRPERSON PARKER: Uh-huh. Anyone else?</p> <p>18 COMMISSIONER SCARAMAZZO: Just that I agree with</p> <p>19 Jeff.</p> <p>20 CHAIRPERSON PARKER: Okay. Do we have a --</p> <p>21 Louis.</p> <p>22 COMMISSIONER HOFFMAN: The basic staff</p> <p>23 recommendation is that the need is greater -- the cost is</p> <p>24 -- would otherwise have been higher but that the expenses</p> <p>25 are in line with previous years, is that the sort of</p>	<p style="text-align: right;">Page 27</p> <p>1 boiling it down nutshell that we can take from your</p> <p>2 comments?</p> <p>3 MR. LANG: Yeah, this is not an increase over what</p> <p>4 we generally do.</p> <p>5 COMMISSIONER HOFFMAN: Okay.</p> <p>6 CHAIRPERSON PARKER: Okay. Is there a motion to</p> <p>7 approve the 2010 election plan?</p> <p>8 COMMISSIONER SCARAMAZZO: I'll move to approve.</p> <p>9 COMMISSIONER FAIRMAN: I'll second.</p> <p>10 CHAIRPERSON PARKER: Okay. All those in favor.</p> <p>11 (Chorus of ayes.)</p> <p>12 CHAIRPERSON PARKER: Opposed?</p> <p>13 COMMISSIONER DANIELS: Nay.</p> <p>14 CHAIRPERSON PARKER: Okay. Motion is carried.</p> <p>15 The next item is Consideration and Possible Action</p> <p>16 on the following final 2010 Budget Items.</p> <p>17 Welcome, Colleen.</p> <p>18 MS. McGEE: Madam Chair. Todd's going to present</p> <p>19 the budget to you today and I'm just going to sit here and</p> <p>20 be his assistant.</p> <p>21 CHAIRPERSON PARKER: Okay. Well, then welcome,</p> <p>22 Todd.</p> <p>23 MR. LANG: Colleen did a great job, as usual,</p> <p>24 putting together the proposed budget and I certainly want</p> <p>25 to thank her for that.</p>
<p style="text-align: right;">Page 28</p> <p>1 I assume you want to move to Agenda Item VI(A),</p> <p>2 which is the CAP.</p> <p>3 CHAIRPERSON PARKER: Yes, uh-huh.</p> <p>4 MR. LANG: As the Commissioners will recall, we're</p> <p>5 required to calculate our expenditure CAP. We're actually</p> <p>6 at the end of a cycle. It's done at the end of every</p> <p>7 gubernatorial election year, and so we're at the end of the</p> <p>8 four-year cycle and so we'll have a new four-year CAP</p> <p>9 beginning next year; and as you can see, our CAP based on</p> <p>10 the calculations is 52 million dollars over the four-year</p> <p>11 period.</p> <p>12 Fortunately, we're able to exceed that CAP so long</p> <p>13 as our total for the four-year period -- and what I'm</p> <p>14 looking at is the 2010 Expenditure CAP chart, which is</p> <p>15 based on A.R.S. 16-949, and as you can see, our four-year</p> <p>16 CAP is 52 million and we're proposing -- our proposed</p> <p>17 budget would result in expenditures of just under 51</p> <p>18 million so we'd be under the CAP for the four-year period.</p> <p>19 Okay. So, obviously, what you need to approve is</p> <p>20 our CAP for this year, which is twelve million, five</p> <p>21 hundred fifty-seven dollars -- twelve million five hundred</p> <p>22 fifty-seven thousand dollars -- just over 12.5 million</p> <p>23 dollars and once you approve that we can move on to the</p> <p>24 next agenda item.</p> <p>25 COMMISSIONER HOFFMAN: I'm sorry, this is -- Madam</p>	<p style="text-align: right;">Page 29</p> <p>1 Chair?</p> <p>2 CHAIRPERSON PARKER: Yes, Louis.</p> <p>3 COMMISSIONER HOFFMAN: This is my first time</p> <p>4 dealing with this stuff, and it's been a while since I've</p> <p>5 looked at the statute on this -- on this subject.</p> <p>6 What is the -- I'm not sure I understand the</p> <p>7 implication of the twelve million dollars specifically.</p> <p>8 MR. LANG: Well, you're not supposed to spend in a</p> <p>9 particular year more than five dollars times the number of</p> <p>10 tax returns in the prior year.</p> <p>11 COMMISSIONER HOFFMAN: Okay.</p> <p>12 MR. LANG: And that number in this case is twelve</p> <p>13 point -- right, is 12.5 -- just over 12.5 million dollars.</p> <p>14 So that's what the statute says at A, but it also permits</p> <p>15 us to exceed that limit that we just determined based on</p> <p>16 the calculation over the four-year period so long as the</p> <p>17 total for the four-year period is under the total cap, and</p> <p>18 what we're showing you is the cap for 2010 is 12.5. We</p> <p>19 plan to spend a lot more than that, but obviously that's</p> <p>20 okay because the total for the four-year period is under</p> <p>21 the 52 million dollar aggregate cap.</p> <p>22 COMMISSIONER HOFFMAN: Okay. So as long as we</p> <p>23 spent no more than about a million dollars more than what</p> <p>24 we think might be spent --</p> <p>25 MR. LANG: Right.</p>



<p style="text-align: right;">Page 30</p> <p>1 COMMISSIONER HOFFMAN: -- or we don't go over 33  2 million something, we're -- we're within the statutory  3 limit?  4 MR. LANG: And for a couple years now Colleen and  5 I and staff have been worried that we would -- that because  6 of the number of people participating we would actually  7 need more than 33 million. It fortunately has worked out  8 to where our calculations are that we'll be okay.  9 COMMISSIONER HOFFMAN: Okay. Even if we're paying  10 matching funds this year?  11 MR. LANG: That's right.  12 COMMISSIONER HOFFMAN: Okay. And --  13 MR. LANG: And we are planning on that.  14 COMMISSIONER HOFFMAN: If the 12 million that you  15 said we were asking us to approve, though, what action do  16 we need to take? Isn't that a defined number that  17 constrains us rather than something we're obligated to  18 approve?  19 MR. LANG: That's true. I suppose you could treat  20 it as a discussion item.  21 COMMISSIONER HOFFMAN: Do we have to approve the  22 expenditures of that plan or is that --  23 MR. LANG: It's part of the budget, yeah.  24 COMMISSIONER HOFFMAN: Okay.  25 MR. LANG: The CAP is part of our budget</p>	<p style="text-align: right;">Page 31</p> <p>1 discussion.  2 CHAIRPERSON PARKER: There's four items in this  3 budget, Louis, that we're going to have to vote on.  4 MR. LANG: We -- we can vote for them separately  5 or you can vote for the whole package. There's not a lot  6 of give and take on the CAP. It's a number, but there's no  7 harm in approving it.  8 COMMISSIONER HOFFMAN: Okay.  9 COMMISSIONER SCARAMAZZO: I would suggest that we  10 separate them --  11 CHAIRPERSON PARKER: Okay.  12 COMMISSIONER SCARAMAZZO: -- Madam Chair.  13 CHAIRPERSON PARKER: All right. Then let's  14 separate them. Is there a motion to approve the 2010  15 expenditure CAP of \$12,557,440?  16 COMMISSIONER FAIRMAN: I'll make a motion to  17 approve that.  18 MR. LANG: Well done.  19 COMMISSIONER SCARAMAZZO second.  20 CHAIRPERSON PARKER: Okay. All in favor say  21 "aye."  22 (Chorus of ayes.)  23 CHAIRPERSON PARKER: Okay. Opposed?  24 COMMISSIONER HOFFMAN: Abstain.  25 CHAIRPERSON PARKER: "Abstain," okay.</p>
<p style="text-align: right;">Page 32</p> <p>1 Okay. Then the next item is the 2010-2013 Revenue  2 Projections. Todd, would you like to explain those for  3 us?  4 MR. LANG: Yeah. This is something we do every  5 year, and we've become a little more conservative because  6 of the economy in calculating our revenue projections; but  7 as you can see, what we've done is basically planned for a  8 one percent increase over the four-year period each year,  9 and we're asking you to approve that.  10 Our current '09 actuals is just over 20 million  11 dollars in revenue, and that's on the bottom left of your  12 page there on Agenda Item VI(B). Our current balance is  13 just under 40 -- just under 34 million dollars.  14 CHAIRPERSON PARKER: Where's that at, Todd?  15 MR. LANG: That's not in here, but I knew you'd  16 ask so Colleen put that -- got that for me.  17 COMMISSIONER FAIRMAN: Just under 34 million?  18 MR. LANG: Yeah. And so the reason we project our  19 revenue is to see how much money we can actually give to  20 the State based on our projected revenue.  21 COMMISSIONER FAIRMAN: Madam Chair?  22 CHAIRPERSON PARKER: Yes, Jeff.  23 COMMISSIONER FAIRMAN: Thank you. Todd, the one  24 percent, I know that's -- that's a negligible amount, but  25 where does that come from?</p>	<p style="text-align: right;">Page 33</p> <p>1 MR. LANG: It's based on prior experience and the  2 revenues have been falling.  3 Do you want to add anything to that?  4 MS. McGEE: The Department of Economic Security  5 this year is suggesting using a one percent increase on the  6 projections. Before in prior years we were using a three  7 percent, and then last year we used a zero percent, and  8 then this year they're using a one percent.  9 Each agency the JLBC, the Joint Legislative Budget  10 Committee, depending on the day that you speak to them,  11 they'll tell you zero or they'll tell you one or they'll  12 give you a negative. So we just try to balance it out and  13 say that we anticipate a one percent increase. Now, that  14 might change if they get rid of photo radar or any other  15 legislation that might go through that it would affect our  16 revenue, but we're pretty confident that we'll see a one  17 percent increase just if nothing else in our civil fines.  18 MR. LANG: We could lose photo radar and that's  19 about 1.5 million dollars a year.  20 MS. McGEE: Correct.  21 COMMISSIONER FAIRMAN: My thought was that at  22 least knowing in at least budgeting several organizations  23 I'm a part of we're really looking at the next two years  24 being very close to zero, if not slightly less, and rather  25 than -- I was just wondering the methodology of doing one</p>

<p style="text-align: right;">Page 34</p> <p>1 percent per year and why it was broken down that way, so 2 thank you.</p> <p>3 MS. McGEE: Yes. It's based on the civil fines, 4 you know.</p> <p>5 MR. LANG: Luckily, some criminal behavior is -- 6 is recession proof.</p> <p>7 COMMISSIONER HOFFMAN: Do we have any past data 8 showing, you know, in some sort of graphical form how this 9 has changed over time to see whether we think that -- 10 whether there has been dips in recent months or any sort of 11 trends that we can use to try to project?</p> <p>12 MS. McGEE: Well, we can compile something for 13 you, Commissioner Hoffman. We have all of our financial 14 information from day one in a monthly format to a yearly 15 format, fiscal versus calendar. So we could supply and put 16 a chart together for you, if you'd like that.</p> <p>17 Basically, our civil fines, our five dollar 18 check-offs are steady. We don't see large increases or 19 decreases. It's -- it's pretty steady every month when we 20 receive our transfer from the Department of Revenue. It's 21 anywhere from 750,000 to a million dollars a month 22 depending on the time of year. You know, tax time we're 23 going to get more than in December so -- but it's -- it's 24 steady and we'll be glad to put a chart together showing 25 you that, if you'd like.</p>	<p style="text-align: right;">Page 35</p> <p>1 COMMISSIONER HOFFMAN: Madam Chair -- thank you, 2 Colleen. I think that it would be helpful in judging the 3 reasonableness of these projections, you know, in the 4 future to have that sort of trends, you know, within the 5 major categories that matter. I mean, obviously, the 6 Commission assessments or, you know, things like other 7 revenue, which are obviously really immaterial in the 8 overall projection don't make a lot of difference, but the 9 two big items showing that, whether it's on an annual basis 10 or, you know, a monthly basis or quarterly basis, whatever 11 you think shows the trends most effectively.</p> <p>12 MS. McGEE: Okay. We could start with a yearly 13 basis for you and then if you think that's more detailed --</p> <p>14 COMMISSIONER HOFFMAN: I think it just depends on 15 what you think would be the most effective way of showing 16 the data and some of this is seasonal, like you mentioned 17 the tax check-offs occur at certain times of year, 18 preferentially to other times of year. You wouldn't want 19 to have that confusing -- confounding the data --</p> <p>20 MS. McGEE: Sure.</p> <p>21 COMMISSIONER HOFFMAN: -- but maybe on that one 22 you'd want, again, annual whereas something else you'd 23 want, you know, more reasonable.</p> <p>24 MS. McGEE: Right. We'll come up --</p> <p>25 COMMISSIONER HOFFMAN: But if the overview has</p>
<p style="text-align: right;">Page 36</p> <p>1 been that you looked at that issue and that there's been, 2 you know, some relatively flat trends then, you know, I 3 believe that -- you know, I for one am satisfied. I don't 4 need to see it in order to prove this.</p> <p>5 MS. McGEE: Okay.</p> <p>6 COMMISSIONER HOFFMAN: I'm just making a 7 suggestion for --</p> <p>8 MS. McGEE: No, it's a great suggestion.</p> <p>9 COMMISSIONER HOFFMAN: -- as I'm coming in looking 10 at this for the first time this year and it kind of, you 11 know, is a little hard to know what to do with it.</p> <p>12 MS. McGEE: Sure.</p> <p>13 COMMISSIONER HOFFMAN: It's a number on a page and 14 whether it's a reasonable projection is difficult to tell 15 without some sort of background.</p> <p>16 CHAIRPERSON PARKER: Okay. Any other -- yes, 17 Todd?</p> <p>18 MR. LANG: Commissioners, if you ever have 19 suggestions like that when you're reading materials and 20 you'd like those kind of graphs, let us know before the 21 meeting and we could have it for you right up on the screen 22 so you can have that.</p> <p>23 CHAIRPERSON PARKER: All right, thank you.</p> <p>24 COMMISSIONER HOFFMAN: Sorry, I didn't think of it 25 earlier.</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. LANG: Yeah, I know, and in this case it's 2 what the State is recommending so we're pretty comfortable 3 with it regardless.</p> <p>4 CHAIRPERSON PARKER: Okay. Do I have a motion to 5 approve the 2010-2013 Revenue Projection?</p> <p>6 COMMISSIONER FAIRMAN: I'll make a motion to 7 approve.</p> <p>8 COMMISSIONER SCARAMAZZO: I'll second.</p> <p>9 CHAIRPERSON PARKER: Okay. All in favor say 10 "aye."</p> <p>11 (Chorus of ayes.)</p> <p>12 CHAIRPERSON PARKER: Okay. That carries. 13 Okay, Item (C), the Proposed Amount of Excess 14 Monies. Todd.</p> <p>15 MR. LANG: Madam Chair, Commissioners, we're 16 proposing that the Commission give to the State General 17 Fund 10 million dollars. That's based on our current 18 balance of just under 34 million dollars, our expected 19 expenditures of just under 33 million dollars -- or 20 approximately 33 million dollars, which would leave us 21 after the transfer of 10 million dollars with about 11 22 million dollars in our fund balance going into 2011.</p> <p>23 As you know, that fund balance has to build up for 24 2012. It also allows for exigencies like there's a bill 25 currently in the Legislature that would make Clean</p>

<p style="text-align: right;">Page 38</p> <p>1 Elections apply to judicial races, which would be  2 incredibly expensive. It would -- there's a bill being  3 considered that would get rid of matching funds but  4 increase the initial funding. All these things could  5 result in changes to our fund balance. We need the 10  6 million dollars to have our fund balance for going into the  7 future, but we're trying to be as aggressive as possible  8 because of the concerns expressed by Commissioner Daniels  9 and the rest of you, to be fair. So we recommend 10  10 million dollars.</p> <p>11 If, of course, our status changes, for instance,  12 if there's a final result in the matching funds litigation  13 that would affect it either way, we'd ask you to reconvene  14 and reconsider the numbers and, you know, when we can get  15 more we will certainly do so.</p> <p>16 CHAIRPERSON PARKER: Todd, when do -- when would  17 we give this 10 million dollars? Would it be all at once?  18 Would it be over two or three times throughout the year?</p> <p>19 How do we do that?</p> <p>20 MR. LANG: We just transfer it and it would be  21 right away. I think maybe we should start getting those  22 big blow-up checks but -- but, no, it's simply an  23 electronic transfer and it would happen within a week?</p> <p>24 MS. McGEE: We just process them and then they --</p> <p>25 CHAIRPERSON PARKER: But, I mean, I guess what</p>	<p style="text-align: right;">Page 39</p> <p>1 time during the year would we plan on making that transfer?  2 Would it be, like, next week?</p> <p>3 MR. LANG: Next week.</p> <p>4 CHAIRPERSON PARKER: Oh, okay.</p> <p>5 MS. McGEE: We would do it next week; and then as  6 Todd mentioned, if for some reason we ended up with more  7 money, we could always bring that back to you at the end of  8 the fiscal year, which is June 30th, and have you revisit  9 this situation to see if we had extra money in our -- that  10 we weren't going to need, that you could authorize us to  11 give more money to the General Fund at that time.</p> <p>12 CHAIRPERSON PARKER: Okay, okay.</p> <p>13 Jeff, have a question?</p> <p>14 Todd -- Louis, do you have a question?</p> <p>15 COMMISSIONER HOFFMAN: Yeah, Madam Chair. The  16 provision about the return of funds to the State, 16-954(d)  17 says that at least once a year the Commission shall project  18 the amount of monies that the Fund will collect over the  19 next four years and the time such money shall become  20 available, and whenever the Commission determines that the  21 Fund contains more money than the Commission determines it  22 will require to meet current debts plus expected expenses  23 under the assumption that expected expenses will be at the  24 expenditure limits in 16-949(a) taking into account  25 projection of collections the Commission shall designate</p>
<p style="text-align: right;">Page 40</p> <p>1 such monies as excess monies and so notify the State  2 Treasurer who shall thereby return such money to the  3 General Fund, do we have a four-year projected -- future  4 projection to support return of this 10 million dollars on  5 both collections and expenditures?</p> <p>6 MS. McGEE: Right, we only have to do our revenue  7 projections.</p> <p>8 MR. LANG: That's what we used. We used the  9 revenue projections.</p> <p>10 MS. McGEE: And then our expenditures we go  11 through on a yearly basis, and in a non-election year our  12 expenditures are very, very low. They're less than two  13 million dollars. So we know in a non-election year that --  14 what our expenditures are going to be.</p> <p>15 It's only in the election year where we're going  16 to fund candidates that we have -- where our concern is and  17 where we have the larger expenditures. So we use our  18 revenue projections, our current four-year expenditure CAPs  19 and that's what gives us the amount of money that we have  20 currently that we can give to the General Fund. We give to  21 the fund every single year. We don't do it every four  22 years. We give to the money every year so...</p> <p>23 COMMISSIONER HOFFMAN: No, it does say once a year  24 this will happen, but I believe that it was supposed to be  25 done based on a projection of expected expenses and</p>	<p style="text-align: right;">Page 41</p> <p>1 expected collections over the four years, and the expected  2 expenses are assuming the expenditure limits -- certain  3 expenditure limits.</p> <p>4 MS. McGEE: And that would be our CAP you mean,  5 the four-year CAP? That's the only limit we have.</p> <p>6 COMMISSIONER HOFFMAN: Expenditure limit in  7 16-949(a.)</p> <p>8 MS. McGEE: Right, that's the expenditure CAP.</p> <p>9 COMMISSIONER HOFFMAN: Right, so --</p> <p>10 MS. McGEE: And the expenditure CAP is based on  11 the number of individual income tax filed in the previous  12 calendar year. So it would be hard to project four years  13 prior what the number of income taxes are filed in a  14 previous year.</p> <p>15 COMMISSIONER HOFFMAN: Well, I think we're  16 supposed to have some sort of projection on that so that we  17 have some basis for knowing whether it's ten or nine or  18 eleven, you know.</p> <p>19 MS. McGEE: We can do that for you, Commissioner,  20 if you'd like.</p> <p>21 COMMISSIONER SCARAMAZZO: Isn't that just --  22 you're just speculating, pulling numbers out of a hat,  23 though?</p> <p>24 MS. McGEE: That's correct, Commissioner  25 Scaramazzo, that's what we would be doing.</p>

<p style="text-align: right;">Page 42</p> <p>1 COMMISSIONER HOFFMAN: Well, obviously, there's --</p> <p>2 any sort of projection, in some sense, is a speculation</p> <p>3 because -- but, you know, the methodology provided in -- in</p> <p>4 the statute is to try to give some -- some feel that</p> <p>5 there's going to be enough money to fund the next four</p> <p>6 years.</p> <p>7 If you give money to the State, you return money</p> <p>8 to the State in a particular amount, and you then later</p> <p>9 have to defund candidates, that's not a good thing; and,</p> <p>10 conversely, if you have more money that you can give back</p> <p>11 to the State because you're projecting -- your projections</p> <p>12 are expecting that expenditures will be low, then you're</p> <p>13 not doing enough to -- to do the -- you know, to meet the</p> <p>14 State's obvious budget hole.</p> <p>15 COMMISSIONER SCARAMAZZO: I understand that.</p> <p>16 COMMISSIONER HOFFMAN: So I'd just like to see</p> <p>17 some -- you know, us follow the methodology suggested -- I</p> <p>18 said suggested, mandated in the statute.</p> <p>19 CHAIRPERSON PARKER: Louis, I think they did when</p> <p>20 they had their four-year projection here at the CAP and</p> <p>21 they projected how much they're getting in and how much</p> <p>22 they've spent.</p> <p>23 COMMISSIONER HOFFMAN: But that's the last four</p> <p>24 years, not the next four years, though, and they got part</p> <p>25 of it with the forecasting on this page that --</p>	<p style="text-align: right;">Page 43</p> <p>1 COMMISSIONER SCARAMAZZO: Projections.</p> <p>2 COMMISSIONER HOFFMAN: -- on VI(B) that -- Agenda</p> <p>3 Item VI(B), which has the forecast elections.</p> <p>4 CHAIRPERSON PARKER: Right, but they could</p> <p>5 historically go back and say, "Two of those four years are</p> <p>6 going to be non-election years so we know it's going to be</p> <p>7 a smaller amount."</p> <p>8 COMMISSIONER HOFFMAN: Right, so that would go</p> <p>9 into the projection.</p> <p>10 CHAIRPERSON PARKER: I think that's what they've</p> <p>11 done.</p> <p>12 COMMISSIONER HOFFMAN: Well --</p> <p>13 MR. LANG: I think projections this particular</p> <p>14 year are particularly difficult because of the matching</p> <p>15 funds, and I realize we can do the formula and we can --</p> <p>16 we're happy to do that for you if that's what you'd like</p> <p>17 and we'll present that at the next meeting; but 10 million</p> <p>18 dollars we felt was the -- the safe ground that would allow</p> <p>19 us to build back up for a statewide election in 2014 and in</p> <p>20 two thousand -- the other election in 2012 based on our</p> <p>21 previous experience over the last six years of doing these,</p> <p>22 but we can -- we can do it in the method you've described.</p> <p>23 My guess is the numbers would come out very similar.</p> <p>24 COMMISSIONER HOFFMAN: Well, I'm hoping so, but</p> <p>25 I'd like -- I'd like to defer it for that reason personally</p>
<p style="text-align: right;">Page 44</p> <p>1 but...</p> <p>2 COMMISSIONER FAIRMAN: Madam Chair?</p> <p>3 CHAIRPERSON PARKER: Jeff.</p> <p>4 COMMISSIONER FAIRMAN: Just a -- I need to help --</p> <p>5 help me understand this. If we were then -- let's look</p> <p>6 back at the revenue projections chart. If in each of the</p> <p>7 years it simply had a line item that said expected</p> <p>8 expenditures, does that really get to -- to what you're --</p> <p>9 you're thinking about?</p> <p>10 COMMISSIONER HOFFMAN: Yeah, I think that's right,</p> <p>11 and then it would show if we take our current bank balance,</p> <p>12 reduce it by 10 million dollars, add our projections,</p> <p>13 subtract our thing, we're going to have enough money to,</p> <p>14 you know, meet the projections forward.</p> <p>15 COMMISSIONER FAIRMAN: And that would mean that --</p> <p>16 but that would bar knowing what the Legislature was going</p> <p>17 to do with regard to -- to judges and what it's going to do</p> <p>18 with regard to -- to photo radar and all those other</p> <p>19 issues. We'd have to look at it a number of times</p> <p>20 throughout the year or possibly. I'm not necessarily --</p> <p>21 I'm not so sure that's not a bad idea just using historic</p> <p>22 data to give us some kind of base -- basis to work off of</p> <p>23 as long as we kept it very, very simple. It's just one</p> <p>24 additional number and it's -- it's really only there to</p> <p>25 provide a little more guidance. Beyond that I think it has</p>	<p style="text-align: right;">Page 45</p> <p>1 -- it wouldn't have a lot of -- a lot of necessity.</p> <p>2 COMMISSIONER HOFFMAN: You could have -- you know,</p> <p>3 graph it and have a chart going up and down in terms of</p> <p>4 what the bank balance would be. Then you see if you lift</p> <p>5 the floor 10 million dollars still below the dip at the</p> <p>6 bottom. So, I mean, it's -- any way that you present it</p> <p>7 would be -- would be effective, but I agree with</p> <p>8 Commissioner Daniels that -- I mean Commissioner Fairman</p> <p>9 that the -- it wouldn't take a lot of extra work and it</p> <p>10 would, I think, give a little more comfort that we would do</p> <p>11 it.</p> <p>12 The statute does say, as far as when it should be</p> <p>13 done, at least once a year and it is possible, if we felt</p> <p>14 there needed to be adjustments because of changes in</p> <p>15 unknown factors that, you know, we can't be psychic about</p> <p>16 then certainly we would, you know, have the opportunity to</p> <p>17 revisit that at future dates as well.</p> <p>18 CHAIRPERSON PARKER: Okay. Jeff.</p> <p>19 COMMISSIONER FAIRMAN: One other thing, Madam</p> <p>20 Chair. I would -- the only thing I would differ with you</p> <p>21 is I don't think I would hold this up based on that. My</p> <p>22 preference would be to go forward with what we've got and</p> <p>23 then give -- that would give staff really time to go back</p> <p>24 and look at that number and put it in and do those</p> <p>25 projections and feel fairly comfortable with that. Yet, it</p>

<p style="text-align: right;">Page 46</p> <p>1 allows us to be responsive to the Legislature at the  2 current time. That seems to make more sense to me.  3 CHAIRPERSON PARKER: Okay, I agree with that.  4 COMMISSIONER HOFFMAN: Madam Chair, may I ask --  5 CHAIRPERSON PARKER: Louis.  6 COMMISSIONER HOFFMAN: -- is there a difference to  7 the State on whether the transfer occurs this month or next  8 month?  9 MR. LANG: Well, it's all within the same fiscal  10 year. So in that sense, no, but obviously -- they've been  11 asking us about it. They've been in frequent communication  12 with Colleen McGee wanting to know about timing and when  13 they're going to get it. They're eager to get it.  14 COMMISSIONER HOFFMAN: What is the status,  15 Mr. Lang, of the bills in the Legislature seeking to sweep  16 money out of the Clean Elections Fund and would that be --  17 you know, do we get any kind of dispensation because we've  18 already swept the money out?  19 MR. LANG: I think they're entirely unrelated.  20 The bill that would not allow us to fund candidates is  21 simply --  22 COMMISSIONER HOFFMAN: No, no, I'm not talking  23 about that bill.  24 MR. LANG: Well, that's the only bill that's in  25 the Legislature.</p>	<p style="text-align: right;">Page 47</p> <p>1 COMMISSIONER HOFFMAN: I thought there was a bill  2 talking about sweeping money from all kinds of --  3 MR. LANG: The Prop 105?  4 COMMISSIONER HOFFMAN: Yeah.  5 MR. LANG: That would be a referral to the ballot  6 and so that wouldn't happen -- that wouldn't happen this  7 fiscal year.  8 COMMISSIONER HOFFMAN: This fiscal year, okay.  9 Well -- okay, thank you.  10 CHAIRPERSON PARKER: All right. Do I have a  11 motion to approve Item C, Proposed Amount of Excess  12 Monies?  13 COMMISSIONER FAIRMAN: I suppose I should do that  14 now. I make a motion to approve Item VI(c), Proposed  15 Amount of Excess Funds.  16 COMMISSIONER DANIELS: Second.  17 CHAIRPERSON PARKER: Thank you. All in favor say  18 "aye."  19 (Chorus of ayes.)  20 CHAIRPERSON PARKER: Opposed?  21 COMMISSIONER HOFFMAN: Opposed.  22 CHAIRPERSON PARKER: Okay.  23 Okay. Item D, the 2010 Agency Budget.  24 MR. LANG: Thank you, Madam Chair, Commissioners.  25 You can see from the materials that Colleen put together</p>
<p style="text-align: right;">Page 48</p> <p>1 that -- the breakdown and you also see how we're under 10  2 percent. As you know, we're required to spend more than 10  3 percent for education. We're required to spend 10 percent  4 or less for administrative and enforcement and we're  5 around, I believe, 8 percent under administrative  6 enforcement. You've seen the voter education budget. That  7 includes the presentation Mike made, plus the  8 statutorily-required voter education materials, including  9 the candidate statement pamphlet and the debates, which are  10 -- are great in and of themselves but they're not an  11 educational program. They are simply statements that the  12 candidates can do and debates which reflect those candidate  13 statements. They don't really teach anyone about how Clean  14 Elections works. So that's the voter education budget of  15 6.2 million dollars, and then the candidate funding makes  16 up the remaining amount.  17 COMMISSIONER DANIELS: Madam Chairman?  18 CHAIRPERSON PARKER: Yes, Lori.  19 COMMISSIONER DANIELS: Madam Chairman, Todd, my  20 question is on this outside legal services of \$300,000, is  21 that due to the lawsuits that the Goldwater Institute has  22 brought forward?  23 MR. LANG: Goldwater and the Quelland matter.  24 COMMISSIONER DANIELS: Okay. I just wanted  25 clarification, thank you.</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. LANG: The Goldwater and Institute for Justice  2 lawsuits over the last ten years have been incredibly  3 expensive for the State.  4 COMMISSIONER DANIELS: Thank you.  5 CHAIRPERSON PARKER: Do I have a motion to approve  6 the 2010 Agency Budget?  7 COMMISSIONER SCARAMAZZO: So moved.  8 COMMISSIONER FAIRMAN: Second.  9 CHAIRPERSON PARKER: Okay. All in favor say  10 "aye."  11 (Chorus of ayes.)  12 CHAIRPERSON PARKER: Opposed?  13 COMMISSIONER DANIELS: Nay.  14 CHAIRPERSON PARKER: Okay. The motion passed.  15 So we have approved items A, B, C and D of Item  16 VI.  17 MS. McGEE: Thank you, Commissioners.  18 CHAIRPERSON PARKER: Okay. Item No. VII,  19 Consideration and Possible Action on the Following Final  20 2008 Primary and General Candidate Audits. Todd.  21 MR. LANG: Thank you, Madam Chair. This is a  22 wrap-up of all the outstanding audits except for one, and  23 I'm very pleased that we've managed to get these to this  24 point.  25 The first group of them are the pre- and</p>

<p style="text-align: right;">Page 50</p> <p>1 post-primary audits. That's the first -- let's see, you  2 have one, two, three, four, five, six of those and then the  3 last two are the general audits and you see -- as you go  4 through them, you'll see that there are a number of minor  5 violations and also some issues that aren't technically  6 violations. A number of them look very egregious where the  7 money on hand is different than what the campaign finance  8 report says, but that's simply because of the way the banks  9 work versus the way the campaign finance reports work.  10 As you know, we are -- and as I've said many times  11 -- we require them to report expenditures when they happen  12 and, of course, the banks don't do that, I mean, when the  13 obligation takes place. The banks actually record the  14 expenditures when the money actually goes en route, and so  15 you're going to have that discrepancy. We're going to  16 change our scope of work for next time so that that issue  17 doesn't keep coming up.  18 There were some other issues in some of the  19 races. They involve receipts and proofs, but after the  20 fact in several cases we received those proofs. In other  21 cases there were some triggering reports that were done a  22 day late, and in all those cases no matching funds were  23 implicated. If they were, we would have recommended  24 enforcement; but given the fact that we're already in the  25 next election cycle, given the fact that most of the</p>	<p style="text-align: right;">Page 51</p> <p>1 invoices are -- were provided after the fact and that we  2 found no egregious violations or violations that we think  3 are appropriate for enforcement at this time, we'd ask that  4 you approve the audits.  5 COMMISSIONER SCARAMAZZO: Madam Chair?  6 CHAIRPERSON PARKER: Yes, Gary.  7 COMMISSIONER SCARAMAZZO: Is it okay if we do  8 these all in one motion --  9 CHAIRPERSON PARKER: I prefer to do that.  10 COMMISSIONER SCARAMAZZO: -- rather than  11 individually?  12 CHAIRPERSON PARKER: Is there a motion to approve  13 No. VII, Items A through G?  14 COMMISSIONER SCARAMAZZO: I'd include H and I in  15 that, in the original motion.  16 CHAIRPERSON PARKER: Oh, I don't have it.  17 COMMISSIONER SCARAMAZZO: Of the primary and  18 general.  19 MR. LANG: H and I are the general.  20 CHAIRPERSON PARKER: H and I are general?  21 MR. LANG: Yes.  22 CHAIRPERSON PARKER: Okay.  23 MR. LANG: And the rest are the primary.  24 CHAIRPERSON PARKER: Okay. I make a -- is there a  25 motion to approve Item VII, A through I?</p>
<p style="text-align: right;">Page 52</p> <p>1 COMMISSIONER SCARAMAZZO: So moved.  2 COMMISSIONER DANIELS: Second.  3 CHAIRPERSON PARKER: Okay. Any further  4 discussion?  5 COMMISSIONER HOFFMAN: Can I ask about the  6 timing? Again, this comes about by my being the newest  7 member of the Commission so far.  8 COMMISSIONER SCARAMAZZO: So far.  9 COMMISSIONER HOFFMAN: Is -- is it -- why are  10 these coming up at this point or --  11 MR. LANG: Why are they so late?  12 COMMISSIONER HOFFMAN: Well, are they?  13 MR. LANG: Frankly, I think they are. I don't  14 want to throw anyone not affiliated with the Commission  15 under the bus, but these take some time because of --  16 sometimes if there's -- candidates ask for extra time to  17 get documents to the candidate -- to the auditors.  18 Sometimes the auditors didn't proceed as quickly as we  19 would have liked. I don't think there's any other reasons  20 other than delays by candidates and delays by the auditors.  21 MR. RUIZ: Right, because a lot of the auditors  22 were in session it was tough for them to get the campaign  23 records to us. So we did give them extension to get those  24 records to the auditors.  25 COMMISSIONER HOFFMAN: So are these -- I remember</p>	<p style="text-align: right;">Page 53</p> <p>1 doing a number of similar kind of audit reviews over the  2 course of the past year. Are these simply some subset that  3 are the last ones kind of thing? How many do we do and  4 where does this fit in the bigger picture is what I'm  5 asking?  6 MR. LANG: This is the end of them except for one.  7 COMMISSIONER HOFFMAN: Okay.  8 MR. LANG: And this represents --  9 COMMISSIONER HOFFMAN: How many do we do?  10 MR. RUIZ: A total of twenty-one.  11 COMMISSIONER HOFFMAN: So this is in the primary  12 or in all of them or --  13 MR. RUIZ: A combined for the primary and the  14 general we do twenty-one audits.  15 COMMISSIONER HOFFMAN: Okay. So we have here  16 eight out of twenty -- out of twenty-one?  17 MR. RUIZ: Out of twenty.  18 COMMISSIONER HOFFMAN: Out of twenty that we've  19 done. So we've done twelve before, this is number eight  20 and there's one more to come?  21 MR. LANG: Right.  22 COMMISSIONER HOFFMAN: Okay. When did we -- how  23 long ago did we do the other ones, the first twelve?  24 MR. RUIZ: They appeared on the Commission meeting  25 agendas in March and April of last year.</p>

<p style="text-align: right;">Page 54</p> <p>1 COMMISSIONER HOFFMAN: Really?</p> <p>2 MR. RUIZ: They were very quick to get their</p> <p>3 records to the auditor. There were no findings in them to</p> <p>4 explain or any other extra invoices to be submitted before</p> <p>5 we could get the final done, and so we were able to get</p> <p>6 those done fairly quickly.</p> <p>7 MR. LANG: These were cases where they had to go</p> <p>8 back and get invoices, fix records. There was some -- in</p> <p>9 one case there was a bank error. There were some things</p> <p>10 that took time to track down. For instance, on one of them</p> <p>11 we received some receipts today that documented what we'd</p> <p>12 been told and what we believed, which was there was no</p> <p>13 serious problem. So it just took longer.</p> <p>14 COMMISSIONER HOFFMAN: Does staff have any</p> <p>15 recommendations for, you know, future cycles in terms of so</p> <p>16 that these don't come in ten months after the others?</p> <p>17 MR. LANG: Well, in at least two cases the delay</p> <p>18 was my fault because the candidates themselves called me</p> <p>19 and asked for continuances. In fact, the one case that's</p> <p>20 not finished, we've given that person several continuances</p> <p>21 and I think we're just going to have to be strict -- more</p> <p>22 strict on the timing.</p> <p>23 COMMISSIONER HOFFMAN: Okay, thank you.</p> <p>24 CHAIRPERSON PARKER: Any other questions?</p> <p>25 Okay. Is there a motion?</p>	<p style="text-align: right;">Page 55</p> <p>1 MR. MUNNS: We have a motion on the floor.</p> <p>2 CHAIRPERSON PARKER: We've got the motion. All in</p> <p>3 favor of the motion say "aye."</p> <p>4 (Chorus of ayes.)</p> <p>5 CHAIRPERSON PARKER: Opposed?</p> <p>6 Okay. The next item is the Legislation Update.</p> <p>7 MR. MUNNS: The motion carried?</p> <p>8 CHAIRPERSON PARKER: Motion carried, I'm sorry.</p> <p>9 COMMISSIONER HOFFMAN: I don't believe we</p> <p>10 addressed H and I. That motion was just the primary?</p> <p>11 CHAIRPERSON PARKER: No, it was all of them.</p> <p>12 COMMISSIONER HOFFMAN: It rolled them all?</p> <p>13 CHAIRPERSON PARKER: Uh-huh.</p> <p>14 COMMISSIONER HOFFMAN: Okay, thank you.</p> <p>15 CHAIRPERSON PARKER: Okay. The next item up is</p> <p>16 the Legislative Update.</p> <p>17 MR. LANG: Thank you, Madam Chair, Commissioners.</p> <p>18 I've been meeting this week with Legislators interested in</p> <p>19 the Bridge Bill, which is the bill we discussed last term</p> <p>20 regarding -- because matching funds are under challenge,</p> <p>21 what we could do in the alternative. We've been meeting</p> <p>22 with folks and they're still interested in that bill but,</p> <p>23 frankly, given the fact that we should have some sort of</p> <p>24 indication from the Court of Appeals within the next couple</p> <p>25 weeks, I don't see that bill going forward right now.</p>
<p style="text-align: right;">Page 56</p> <p>1 There is also still some interest in a hybrid</p> <p>2 bill, which would get rid of matching funds, but would</p> <p>3 replace it with a different kind of matching funds.</p> <p>4 Basically, the candidate would raise hundred dollar</p> <p>5 contributions like seed money, but they wouldn't be limited</p> <p>6 by the seed money amount. They could, instead, raise their</p> <p>7 own matching funds through seed money -- through these</p> <p>8 hundred dollar contributions that the Commission would</p> <p>9 match at some ratio.</p> <p>10 So, for instance, if Candidate Jones raised twenty</p> <p>11 \$100 contributions totaling \$2,000, we could match it at</p> <p>12 two to one or five to one and he would have that much more</p> <p>13 money to spend up to the matching funds limit, the idea</p> <p>14 being that candidates who wanted to run but were afraid it</p> <p>15 was going to be one of those really hot districts where a</p> <p>16 lot of money was going to be spent, they wouldn't get</p> <p>17 matching funds but, instead, they could raise their own</p> <p>18 money and that has some interest nationwide.</p> <p>19 The nationwide campaign finance reform folks are</p> <p>20 proposing before Congress. We're just in the preliminary</p> <p>21 discussion stages so we don't even have a position on it.</p> <p>22 We're just discussing it, but I wanted to let you know</p> <p>23 that's where we are with that legislation.</p> <p>24 The other legislation I testified against the</p> <p>25 -- Senator Paton's bill, which would call for no taxpayer</p>	<p style="text-align: right;">Page 57</p> <p>1 money for politicians, and defining taxpayer money is</p> <p>2 pretty much all the money we get.</p> <p>3 I pointed out to the Judiciary Committee at the</p> <p>4 Senate during my testimony that, of course, this isn't</p> <p>5 taxpayer money, this is a surcharge on fines and penalties</p> <p>6 and voluntary tax contributions and he pointed out, "Well,</p> <p>7 tax contributions are -- would otherwise go to the fund,</p> <p>8 right?" and I said, "Yes, but we transfer more money to the</p> <p>9 fund than we receive in tax write-offs or tax check-offs,</p> <p>10 and so we're revenue positive in all instances." I also</p> <p>11 pointed out that this was a separate fund created by the</p> <p>12 voters and, of course, it wouldn't do anything to solve</p> <p>13 their budget crisis.</p> <p>14 The supporters of this bill are long-standing</p> <p>15 opponents of Clean Elections. God bless them, I respect</p> <p>16 their opinions, but I think it has very little to do with</p> <p>17 the budget crisis. It's just the budget crisis is an</p> <p>18 opportunity to send this to the voters at a time when the</p> <p>19 voters are going to be very hostile to anything perceived</p> <p>20 as taking money away from schools, education, health care,</p> <p>21 what have you, and so that's what I testified to.</p> <p>22 It passed out of the Judiciary at four votes for,</p> <p>23 two votes against, and it's moving along. We'll see where</p> <p>24 it goes. It should be on the floor sometime in the next</p> <p>25 couple of months for a vote; and, of course, if it makes it</p>

<p style="text-align: right;">Page 58</p> <p>1 out of the Senate it will have to go over to the House and 2 we'll certainly talk about it there.</p> <p>3 What we suggested to them is that they simply give 4 the voters an opportunity to vote. If you want to get rid 5 of Clean Elections, put the whole program up, let the 6 voters decide thumbs up or thumbs down on the Clean 7 Elections Public Finance Program. That way no voters are 8 deceived. No voters are thinking this is stuff that would 9 come out of our schools or what have you, and if they like 10 campaign finance reform programs like this they'll vote 11 yes, and if they don't want it they'll vote no; and that's 12 what we're really trying to persuade them to do.</p> <p>13 CHAIRPERSON PARKER: Okay. Any other questions? 14 Todd, thank you. 15 How about the Litigation Update? 16 MR. LANG: Well, it's certainly been an 17 interesting week. In the same week that we testified 18 against the -- effectively, the repeal of Clean Elections, 19 there were two court decisions that came down. One was the 20 decision in the Institute for Justices challenge that was 21 later joined by the Goldwater Institute against matching 22 funds. This is about the eighth in a series of 23 constitutional challenges to various provisions of the 24 Clean Elections Act. All the previous challenges have 25 failed.</p>	<p style="text-align: right;">Page 59</p> <p>1 My view is that these are policy objections 2 clothed as constitutional objections. They just don't like 3 Clean Elections, which is their prerogative, and what's the 4 old saying -- some of my best friends don't like Clean 5 Elections, but they've raised it as a constitutional 6 challenge. The previous challenges went nowhere. This 7 particular challenge is going nowhere for a couple of 8 years, and then suddenly the US Supreme Court last year 9 came down with the Davis decision which struck down the 10 millionaire's amendment because it was discriminatory. It 11 basically changed the rules if wealthy people spent a lot 12 of money.</p> <p>13 Our program is not the same. It's not 14 discriminatory. It doesn't change the rules. It just has 15 two separate systems, and that's what we tried to describe 16 to the court, a publicly-financed system and then the 17 traditional system. The courts have long upheld 18 public-financed systems and -- and we felt this was 19 constitutional for that reason and that Davis didn't apply 20 for that reason. Judge Silver didn't agree. She agreed 21 with the plaintiffs and found that matching funds are 22 unconstitutional.</p> <p>23 I would point out, though -- if you've read her 24 opinion you'll also know this -- she really found no 25 evidence of harm to the plaintiffs; and when you're</p>
<p style="text-align: right;">Page 60</p> <p>1 striking down statutes, it's usually a balance of hardships 2 or a balance of harm.</p> <p>3 In this case there was no harm to the plaintiffs 4 because what you would expect is -- they were saying, "Oh, 5 my God, Clean Elections matching funds are trampling on my 6 -- on my First Amendment rights because I don't spend money 7 because I don't want to trigger matching funds," and what 8 would you expect then? You would expect a bunch of 9 expenditure reports right up to the limit and stopping 10 because if you go right up to the limit and stop, you won't 11 trigger matching funds.</p> <p>12 Well, guess what? That just wasn't borne out. 13 There was almost no examples of that throughout the 14 campaigns, all the campaigns. People just weren't playing 15 that way. They weren't stopping their spending because of 16 fear of matching funds, and those who spent over the limit 17 triggered matching funds.</p> <p>18 So, basically, they're arguing that the freedom of 19 speech also includes the freedom from rebuttal and, 20 unfortunately, Judge Silver agreed with them. So we're now 21 in the Ninth Circuit. We've filed papers for an emergency 22 stay basically saying regard -- you know, "We think we can 23 win on the merits," but when you balance the hardships 24 which are this harm recognized by the Court, this chill on 25 speech recognized by the Court after Davis which is, you</p>	<p style="text-align: right;">Page 61</p> <p>1 know -- you know, you have to respect the decision of the 2 Court.</p> <p>3 They think that the fact that matching funds 4 exists is a chill on speech itself even though there's no 5 real evidence of it, and you balance that versus the real 6 harm we'll see to the election cycle where we have 7 statewide candidates who have invested months of time and 8 work to get those five dollar contributions.</p> <p>9 We have several candidates who have -- we have a 10 couple who have turned in their slips and we have a couple 11 more who are just checking them, have enough slips and are 12 simply doing the final preparations, and because of the ban 13 on lobbyists' contributions during session and because we 14 know session's going to go quite long, it would be almost 15 impossible for participating candidates to switch back to 16 traditional.</p> <p>17 So that's the basis of our argument in the Ninth 18 Circuit, that you can't change the rules in the middle of 19 the game. That would do incredible harm to those 20 candidates, but it would also harm the election -- the 21 integrity of the election result and it would harm the 22 voters, because the voter's going to hear less 23 information.</p> <p>24 Now, that's the irony of this result. In order to 25 protect the First Amendment, they're dictating a result</p>



<p style="text-align: right;">Page 62</p> <p>1 that would mean less public speech, less public discourse,  2 less debate. You'd have these attack ads with no response  3 and -- and that's a shame.</p> <p>4 So that's why -- that's what we're doing in the  5 Ninth Circuit, and my understanding is there will be some  6 sort of result in the next twenty days.</p> <p>7 COMMISSIONER HOFFMAN: Madam Chair?  8 CHAIRPERSON PARKER: Louis.</p> <p>9 COMMISSIONER HOFFMAN: Mr. Lang and counsel, I  10 have much more concern about the effect of the injunction  11 on the voters and the prospective people listening to the  12 speech than the candidates because the tactical -- you  13 know, the tactics of particular candidates are -- are not  14 of interest. I think we need to stand up more and  15 emphasize more the damage to the -- the last point you  16 made, the -- rather than that being a "but also."</p> <p>17 The other point is that the Legislature has not  18 been able to or willing or capable of responding to a  19 ruling of unconstitutionality by crafting a -- by adjusting  20 the system to either increase the amount of funding overall  21 and provide us a flat amount or what seems to me the  22 simplest solution which would be constitutional, which is  23 to pay the entire three times matching funds at the  24 beginning and tell candidates they can't spend what they  25 received faster than the other guy.</p>	<p style="text-align: right;">Page 63</p> <p>1 It is a -- which is, by the way, indistinguishable  2 from the current program but, nonetheless, would be clearly  3 constitutional.</p> <p>4 So I think we need to focus and instruct our  5 attorneys to focus our legal position on protecting the  6 voters' right to receive information during this election  7 cycle rather than the notion that politicians have had  8 their political plans thrown into question.</p> <p>9 Just a comment, not causing any action.</p> <p>10 CHAIRPERSON PARKER: Okay. Any other comments?  11 COMMISSIONER SCARAMAZZO: I just appreciate Todd  12 going ahead and clarifying me -- clarifying for me the  13 First Amendment today because, you know, I've just sat  14 there thinking and it just appears to me that that's  15 pretzel logic I've been hearing, it's twisted, that I don't  16 see anyone's First Amendment rights in these lawsuits being  17 taken away.</p> <p>18 I think when we look at the court decisions that  19 have come down, including the Supreme Court last week, that  20 it seems like the Courts are willing to go back to business  21 as it used to be. The big money boys will control, and  22 there will be less speech available, and I'm very  23 disappointed in that. So I just wanted to go on record.</p> <p>24 CHAIRPERSON PARKER: Okay, thank you.  25 MR. LANG: Madam -- Madam Chair?</p>
<p style="text-align: right;">Page 64</p> <p>1 CHAIRPERSON PARKER: Yes.  2 MR. LANG: I should also mention that the  3 plaintiffs Goldwater Institute filed an emergency request  4 for a removal of the 10-day stay even though we're about, I  5 don't know, six or seven days into it under the theory that  6 the status quo is not what it is, that the status quo is no  7 matching funds because Judge Silver indicated some  8 hostility to the matching funds con -- the  9 constitutionality of the matching funds some sixteen months  10 ago.</p> <p>11 The fact that no legal decision had been reached  12 and no final ruling had been reached and the evidence had  13 not been submitted and the testimony had not all been heard  14 and the briefing had not been completed doesn't change  15 that. In their view the status quo is no matching funds,  16 and so they want to protect their candidates who relied on  17 the fact that there wouldn't be matching funds in making a  18 decision, some of whom made it clear that anyone who takes  19 matching funds or participates in a public program is  20 making a poor decision on the merits. So I wonder how  21 much, you know, credibility that is.</p> <p>22 Anyway, the point is they filed their own request  23 for a leave, which I think is a very clever tactic.  24 Basically, you know, we all know the best defense is a good  25 offense and I think that enables them to try to frame the</p>	<p style="text-align: right;">Page 65</p> <p>1 issues. So we'll also be responding to that as well. Very  2 interesting time and a lot of fun issues.</p> <p>3 COMMISSIONER HOFFMAN: When is our response due on  4 that?</p> <p>5 MR. LANG: You know, I don't know. I would  6 imagine next week.</p> <p>7 COMMISSIONER HOFFMAN: Would that be after the ten  8 days?</p> <p>9 MR. LANG: I would imagine they've asked for  10 emergency briefing and they'll probably get it.</p> <p>11 The other point of that, of course, is even after  12 the ten days expires, matching funds don't get issued until  13 June. So, you know, it doesn't really -- the status --  14 anyway.</p> <p>15 COMMISSIONER HOFFMAN: That was the thing that I  16 found astounding and, that is, that they were saying that  17 they wanted to have an injunction against matching funds  18 being paid in the next ten days, or whatever is left of it,  19 and the specific matching funds that are going to be paid  20 in the next ten days are admittedly zero.</p> <p>21 MR. LANG: Right.</p> <p>22 COMMISSIONER HOFFMAN: So they'll be irreparably  23 harmed because of violation of the constitutional rights in  24 the next ten days because of non-existent matching funds.  25 MR. LANG: I think the theory there is they're</p>

<p style="text-align: right;">Page 66</p> <p>1 trying to redefine what the status quo is. It's clever. I  2 have to take my hat off.  3 And then the final thing I wanted to mention, of  4 course, is Citizens United, which came down after our  5 decision which allows corporations to make as much -- make  6 as many independent expenditures as they like, which is a C  7 change in our campaign finance system. It overturns a case  8 that expressly upheld it six years ago. It overturns other  9 cases some twenty years ago, and it overturns a policy  10 that's been around for about a hundred years. So it's an  11 interesting time, but the reason it's important for Clean  12 Elections is because those corporate con -- those corporate  13 independent expenditures and still independent expenditures  14 and they still will trigger matching funds and so it's very  15 important that we -- any legislation that addresses this  16 new ruling keep in mind that you get matching funds issued.  17 CHAIRPERSON PARKER: Okay. Todd, thank you very  18 much.  19 MR. LANG: Oh, one other thing, Madam Chair.  20 CHAIRPERSON PARKER: Yes.  21 MR. LANG: The Quelland matter brief, the  22 respondent's -- Mr. Quelland's brief is due tomorrow --  23 MR. MUNNS: Today.  24 MR. LANG: Today?  25 MR. MUNNS: The 28th.</p>	<p style="text-align: right;">Page 67</p> <p>1 MR. LANG: But I believe he's received an  2 extension of seven days, and so he'll be filing it next  3 week.  4 CHAIRPERSON PARKER: Okay.  5 MR. LANG: Were you part of that e-mail last  6 night?  7 MR. MUNNS: No, I didn't see that one.  8 COMMISSIONER HOFFMAN: This is a brief on?  9 MR. LANG: On -- on the merits of how the case  10 should proceed.  11 COMMISSIONER HOFFMAN: Whether there was discovery  12 or not?  13 MR. LANG: Right, right, on all those issues. And  14 there will be an expedited briefing schedule thereafter and  15 so we should -- we should at least have a hearing or  16 something in March so it continues to progress.  17 CHAIRPERSON PARKER: Okay. Any other comments,  18 questions? Okay, thank you very much, Todd.  19 Okay. The next item on the agenda is one that I'm  20 happy to be a part of, thanking Gary for his service on our  21 Commission.  22 We have for you, Gary, a nice plaque, just a small  23 token of our appreciation.  24 COMMISSIONER SCARAMAZZO: Well, thank you, and  25 it's been enjoyable and thanks.</p>
<p style="text-align: right;">Page 68</p> <p>1 Have they named my replacement yet?  2 MR. LANG: They have not.  3 COMMISSIONER SCARAMAZZO: Darn. Okay. Well, I  4 appreciate that and I have very much enjoyed being  5 associated with Clean Elections and I wish you all the very  6 best and I want to see this continue because I do believe  7 it's in the citizen interest for them to go ahead and have  8 information available to them and to make it easier for  9 candidates to go ahead and qualify for these elections.  10 I do appreciate everybody's support over the  11 years, and that five years went fairly quickly, although  12 there were some meetings that went --  13 COMMISSIONER HOFFMAN: A bit slower than others.  14 COMMISSIONER SCARAMAZZO: Yes, exactly.  15 CHAIRPERSON PARKER: Well, we just wanted you to  16 know how much we appreciate all you've done for this  17 Commission and your years as Chairman and as a Board Member  18 and just really appreciate all your efforts.  19 COMMISSIONER SCARAMAZZO. Thank you  20 (Applause.)  21 CHAIRPERSON PARKER: Todd.  22 MR. LANG: Madam Chair, I'd also like -- on behalf  23 of staff we all feel this way. We certainly appreciate  24 what Gary did for the -- for the Commission and the staff.  25 His leadership was helpful throughout. His pragmatic</p>	<p style="text-align: right;">Page 69</p> <p>1 determination to reach a fair result regardless of  2 political outcome or partisanship was an example, I think,  3 for everyone, for staff and Commissioners. He was always  4 fairminded, and when he and I discussed matters he simply  5 wanted to reach the right result regardless of who it would  6 upset or who would be pleased by it, and that's all we can  7 ask for with Commissioners. So thank you so much, Gary.  8 COMMISSIONER SCARAMAZZO: Thank you, Todd.  9 CHAIRPERSON PARKER: Okay. Now's the time for  10 public comment. If anyone from the public would like to  11 speak with us about any issue, please feel free to come  12 forward.  13 Okay. At this time I'd like to entertain a motion  14 to adjourn.  15 COMMISSIONER FAIRMAN: Well, Madam Chair, I make a  16 motion to adjourn.  17 COMMISSIONER HOFFMAN: Second.  18 CHAIRPERSON PARKER: All in favor say "aye."  19 (Chorus of ayes.)  20 CHAIRPERSON PARKER: Motion carried.  21  22 (Whereupon the proceedingd were concluded at  23 10:48 a.m.)  24  25</p>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I, TERI VERES, Certified Reporter, do hereby  
certify that the foregoing pages numbered 1 through 69,  
inclusive, constitute a full and accurate printed record of  
my stenographic notes taken at said time and place, all  
done to the best of my skill and ability.

DATED at Phoenix, Arizona this 1st day of  
February, 2010.

---

Teri L. Veres, RMR  
Certified Reporter (AZ50687)

1